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09/848,090	05/02/2001	Edward Gendelman	Oil Exchange. App	7093

7590 01/15/2003

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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/848,090

Applicant(s)

GENDELMAN, EDWARD

Examiner

Steven R. Wasylchak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 (e) that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being unpatentable over Lange (US 6,321,212).

As per claim 1,

A process for packaging and securitizing future oil and gas production stream or streams from one or more oil and gas wells and creating a production backed security, the process steps comprising:

-establishing an oil and gas trust, the trust managed by a trustee;/ abstract; fig 4(261); col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34;

col 57, L 61 to col 58, L 8; col 63, L 61 to col 64, L 6.

-developing a comprehensive database related to a proposed purchase of an oil and gas / fig 4

-production stream based on engineering data received from an oil and gas producer and related to the oil and gas wells and their production; / col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 57, L 61 to col 58, L 8; col 63, L 61 to col 64, L 6.

-analyzing the engineering data to determine if the oil and gas production stream should be purchased; / col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

-purchasing the oil and gas production stream from one or more oil and gas wells by the trustee from the oil and gas producer;/ col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

-issuing and selling a production backed security based on the oil and gas production stream by the trustee to one or more investors;/ abstract; col 2, L 52-57; col 57, L 61 to col 58, L 8

-paying the oil and gas producer from a portion of the proceeds from the sale of the security to the investor; and/ col 57, L 61 to col 58, L 8;

-monitoring the oil and gas production stream purchased from the oil and gas producer./ abstract; fig 4, 5

As per claim 2,

The process as described in claim 1 wherein the step of analyzing the engineering data includes estimating a decline curve related to future production and discounting the decline curve prior to purchasing the oil and gas production stream./ inherent in fig 8

As per claim 3,

The process as described in claim 1 further including the step of hedging a commodity price of the oil and gas production stream prior to issuing and selling the security to one or more investors./ col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

As per claim 4,

The process as described in claim 1 further including the step of obtaining a rating of the production backed security from a rating agency prior to issuing and selling the security to one or more investors./col 54, L 47 - 55

As per claim 5,

The process as described in claim 1 further including the step of insuring and guaranteeing the production backed security using a finance or insurance company prior to issuing and selling the security to one or more investors./ abstract; col 54, L 47 - 55

As per claim 6,

The process as described in claim 1 further including the step of requesting and obtaining well insurance from the oil and gas producer on the oil and gas wells providing

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the oil and gas stream prior to purchasing the oil and gas stream./ inherent in abstract;

col 54, L 47 - 55

As per claim 7,

A process for packaging and securitizing future oil and gas production stream or streams from one or more oil and gas wells and creating a production backed security, the process steps comprising:

- establishing an oil and gas trust, the trust managed by a trustee;/ abstract; fig 4(261); col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 57, L 61 to col 58, L 8; col 63, L 61 to col 64, L 6.

- developing a comprehensive database related to a proposed purchase of an oil and gas production stream or streams based on engineering data received from an oil and gas producer and related to the oil and gas wells and their production;/ fig 4

- analyzing the engineering data to determine if the oil and gas production stream or streams should be purchased and estimating a decline curve related to current and future production of oil and gas and discounting the decline curve prior to purchasing the oil and gas stream or streams;/ col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

- insuring the oil and gas wells providing the oil and gas production stream or streams;/ abstract; col 54, L 47 - 55

- purchasing the oil and gas production stream or streams from one or more oil and

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gas wells;/ col 1, L 36-46; col 2, L 52-57; col

23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

-issuing and selling a production backed security based on the production

stream or streams by the trust to one or more investors;/ abstract; col 2, L

52-57; col 57, L 61 to col 58, L 8

-paying the oil and gas producer from a portion of the proceeds from the sale of the

security to the investor; and/ inherent in abstract and col 54, L 47 - 55

-monitoring the oil and gas production stream or streams purchased from the oil and

gas producer./ col 54, L 47 - 55

As per claim 8,

The process as described in claim 7 wherein the step of analyzing the engineering data and estimating the decline curve related to future production of oil and gas and discounting the decline curve prior to purchasing the oil and gas stream./ inherent in fig 8

As per claim 9,

The process as described in claim 7 further including the step of hedging a commodity price of the oil and gas production stream or streams prior to selling the security to an investor./ col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

As per claim 10,

The process as described in claim 7 further including the step of obtaining a rating of the production backed security from a rating agency and prior to issuing and selling the security to one or more investors./ col 54, L 47 – 55

As per claim 11,

The process as described in claim 7 further including the step of credit enhancing the production backed security using a finance or insurance company and prior to issuing and selling the security to one or more investors./ abstract; col 54, L 47 – 55

As per claim 12,

A process for packaging and securitizing future oil and gas production stream or streams from one or more oil and gas wells and creating a production backed security, the process steps comprising:

-establishing an oil and gas trust, the trust managed by a trustee; / abstract; fig 4(261); col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 57, L 61 to col 58, L 8; col 63, L 61 to col 64, L 6.



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-developing a comprehensive database related to a proposed purchase of an oil and gas production stream or streams based on engineering data received from an oil and gas producer and related to the oil and gas wells and their production;/ fig 4

-analyzing the engineering data to determine if the oil and gas production stream or streams should be purchased and estimating a decline curve related to future production of oil and gas and discounting the decline curve in a range of 5 to 100% for a 2 to 5 year prior to purchasing the oil and gas stream or streams;/ inherent in col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

-insuring the oil and gas wells providing the oil and gas production stream or streams;/ abstract; col 54, L 47 – 55

-purchasing the oil and gas production stream or streams from one or more oil and gas wells by the trust from the oil and gas producer;/ col 1, L 36-46; col 2, L 52-57; col 23, L 6-13; col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

-issuing and selling a production backed security based on the production stream or streams by the trust to one or more investors;/ abstract; col 2, L 52-57; col 57, L 61 to col 58, L 8

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-paying the oil and gas producer from the proceeds from the sale of the security to the investor; and/ inherent in abstract and col 54, L 47 – 55

-monitoring the oil and gas production stream or streams purchased from the oil and gas producer./ abstract; fig 4, 5

As per claim 13,

The process as described in claim 12 wherein the step of analyzing the engineering data and estimating a decline curve related to future production of oil and gas and discounting the decline curve in a range of 5 to 100% prior to purchasing the oil and gas stream./ inherent in fig 8

As per claim 14,

The process as described in claim 12 further including the step of hedging a commodity price on the oil and gas production stream or streams prior to selling the security to an investor./ col 52, L 65 to col 53, L 34; col 63, L 61 to col 64, L 6.

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As per claim 15,

The process as described in claim 12 further including the step of obtaining a rating for the production backed security using a rating agency and prior to issuing and selling the security to one or more investors. / abstract; col 54, L 47 – 55

As per claim 16,

The process as described in claim 12 further including the step of credit enhancing the production backed security using a finance or insurance company and prior to issuing and selling the security to one or more investors./ abstract; col 54, L 47 - 55

This action is Non-Final. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



1/9/03

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